

806 KAR 39:050. Self-insurance.

RELATES TO: KRS 304.8-030, 304.8-095, 304.39-020(12), 304.39-080, 304.39-140, 304.39-170, 304.39-290,

STATUTORY AUTHORITY: KRS 304.2-110, 304.39-080, 304.39-300

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.39-080 authorizes the Commissioner of Insurance to approve applications for self-insurance and set standards that shall be met by applicants. This administrative regulation establishes the criteria to apply for self-insurance, and the authority of the commissioner to revoke self-insurance status.

Section 1. Any person who desires to be self-insured, as established in KRS Chapter 304, Subtitle 39, shall submit an application to the Commissioner of Insurance on the form, "Application for Motor Vehicle Self-Insurance," 12/2020 edition.

Section 2. The applicant shall agree in writing to pay all tort liability and basic reparation benefits incurred and established by KRS Chapter 304, Subtitle 39, and shall agree to become a member of the Kentucky Arbitration Association, and to meet all obligations incurred, and shall agree to become a member of the Assigned Claims Bureau, and to meet all obligations incurred.

Section 3. The applicant shall file with the application, and every year after, a balance sheet and income statement that shall reflect the actual financial condition of the applicant as of the last complete calendar or fiscal year preceding the date of the application; and, in the case of an individual, the balance sheet and income statement shall be certified, under oath, by the individual that it truly reflects his financial condition and income as of that time. In the case of a corporation or partnership, it shall be certified by a Certified Public Accountant or responsible accounting officer of the applicant. This information shall be confidential, and the Commissioner of Insurance shall not release this information unless he has the prior written consent of the applicant.

Section 4. The application shall list the vehicles as of the date of application and annually thereafter for which the self-insured shall provide security and advise the commissioner of any changes in the number of insured vehicles thereof unless the self-insurer has furnished maximum security.

Section 5. The applicant shall furnish security to the commissioner to meet his continuing obligation as agreed to in Section 2 of this administrative regulation. The security furnished may be in the form of a bond, with surety, by an insurer authorized by the Department of Insurance to engage in surety insurance contracts or an irrevocable letter of credit issued by a bank chartered by the Commonwealth of Kentucky or a member bank of the Federal Reserve System whose capital and surplus shall equal or exceed \$25 million.

Section 6. Security may also be furnished by depositing, with the Custodian of Insurance Securities, cash or assets of the kind that may be deposited by a domestic insurer pursuant to KRS 304.8-030. The commissioner may require assets to be deposited pursuant to KRS 304.8-095. Where the security tendered to the commissioner is of a kind that may vary in market value, including U.S. obligations, bonds, stocks, or real estate, the commissioner may, in his discretion, require the amount tendered to have a current market value greater than the minimum required security, but not in excess of 150 percent of the minimum required security.

Section 7. The minimum security that shall be furnished to the commissioner is for one (1) secured vehicle, \$50,000; and for each additional vehicle: \$10,000, up to a maximum of \$200,000.

Section 8. The commissioner shall hold the securities furnished under Sections 5, 6, and 7 of this administrative regulation for the benefit of those persons to whom the self-insured is obligated under the provisions of KRS Chapter 304, subtitle 39.

Section 9. Each self-insured shall furnish to the commissioner, no later than January 10, April 10, July 10, and October 10 of each year, a report on forms, authorized by the commissioner, of all claims incurred during the preceding calendar year.

Section 10. If, based upon the number of claims incurred by the self-insured, the commissioner shall determine that the security furnished is inadequate, he may require additional security and more frequent report of claims incurred.

Section 11. If a self-insured fails to meet its obligations under KRS Chapter 304, Subtitle 39, or fails to make the required report of claims, or to post additional security required by the commissioner, the commissioner shall disapprove the self-insured for self-insurance.

Section 12. A self-insured may, at any time, by written request to the commissioner, withdraw as a self-insured.

Section 13. When a self-insured voluntarily withdraws as a self-insured, or when the commissioner disapproves the self-insured, the commissioner shall retain the security furnished until the self-insured has met all obligations incurred as a self-insured under KRS Chapter 304, Subtitle 39. If any obligation remains unsatisfied for ninety (90) days, the commissioner may institute proceedings to assure that all persons to whom the self-insured is obligated under KRS Chapter 304, Subtitle 39 shall receive their equitable share of the securities available.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(1) "Application for Motor Vehicle Self-Insurance", 4/2021 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the office's Web site at www.insurance.ky.gov.

(1 Ky.R. 880; eff. 5-14-1975; TAm eff. 8-9-2007; Crt eff. 2-26-2020; 47 Ky.R. 1678, 2397; eff. 8-3-2021.)